

ORDINANCE NO. 2023-06

AN ORDINANCE OF THE TOWN OF INDIALANTIC, BREVARD COUNTY, FLORIDA, RELATING TO *PER DIEM* AND TRAVEL REIMBURSEMENT; MAKING FINDINGS; AMENDING SECTION 2-170, 2-179, 2-180, AND 2-191 OF THE TOWN CODE OF ORDINANCES; AMENDING PROVISIONS RELATING TO ADOPTION OF A SCHEDULE OF TRAVEL REIMBURSEMENT AND *PER DIEM* REIMBURSEMENT; REVISING THE *PER DIEM* RATE; REVISING PROVISIONS RELATING TO ITEMIZATION OF EXPENSES; AMENDING LANGUAGE RELATING TO APPROVAL FOR REIMBURSEMENT; PROVIDING FOR SEVERABILITY/INTERPRETATION; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, Section 112.061, Florida Statutes, provides for the compensation of Florida public officers and public employees; and

**WHEREAS**, based on Section 112.061(2)(a) and (j), Florida Statutes, “public officers” and “public employees” include municipal officers and employees, such as officials and employees of the Town of Indialantic; and

**WHEREAS**, the statute sets forth the authorized rates of reimbursement for “*per diem* and travel expenses of public officers, employees, and authorized persons”; and

**WHEREAS**, as in adopting Section 112.061, Florida Statutes, it was the intent of the Florida Legislature to”

prevent inequities, conflicts, inconsistencies, and lapses in the numerous laws regulating or attempting to regulate travel expenses of public officers, employees, and authorized persons in the state, it is the intent of the Legislature:

(a) To establish standard travel reimbursement rates, procedures, and limitations, with certain justifiable exceptions and exemptions, applicable to all public officers, employees, and authorized persons whose travel is authorized and paid by a public agency.

(b) To preserve the standardization established by this law:

Section 112.061(1), Florida Statutes; and

**WHEREAS**, notwithstanding the plan of the Legislature to establish a uniform *per diem* and travel expense reimbursement plan, Section 166.021(9), Florida Statutes, specifically provides that municipalities, such as the Town of Indialantic, may exempt themselves from the uniform plan in whole or in part and adopt their own *per diem* and travel expense reimbursement plan; and

**WHEREAS**, Section 166.021(9)(b), Florida Statutes, provides pertinent part that:

(b) Notwithstanding s. 112.061, the governing body of a municipality or an agency thereof may provide for a per diem and travel expense policy for its travelers which varies from the provisions of s. 112.061. A municipality or agency thereof that provides any per diem and travel expense policy pursuant to this subsection shall be deemed to be exempt from all provisions of s. 112.061. A municipality or agency thereof that does not provide a per diem and travel expense policy pursuant to this subsection remains subject to all provisions of s. 112.061.

**WHEREAS**, notwithstanding the intent of the Legislature that Section 112.061, Florida Statutes, provides a uniform per diem and travel expense reimbursement plan, Section 112.061(1)(b), Florida Statutes, recognizes that:

1. The provisions of this section shall prevail over any conflicting provisions in a general law, present or future, to the extent of the conflict; but if any such general law contains a specific exemption from this section, including a specific reference to this section, such general law shall prevail, but only to the extent of the exemption.

(emphasis supplied); and

**WHEREAS**, the Federal Government through the U.S. General Services Administration ("GSA") sets a periodic rate for public officers and employees for per diem and travel expense reimbursement; and

**WHEREAS**, the Town Council finds that the per diem and travel expense schedule in Section 112.061, Florida Statutes, is rarely revised; and

**WHEREAS**, the rate of compensation for travel mileage is 44.5 cents per mile, and the Town Council finds that this rate was set in 2006 and has not been since revised – see §1, Chap. 2006-1, Laws of Fla.; and

**WHEREAS**, the rate of compensation for Class C reimbursement for meals of \$6 for breakfast, \$11 for lunch, \$19 for dinner and a per diem rate of \$80 was set in 2006, and the Town Council finds that this rate has not been since revised – see §1, Chap. 2006-1, Laws of Fla.; and

**WHEREAS**, the Town Council finds that the rate of inflation as shown by the consumer price index in 2022 alone was 8% based on calculations by the U.S. Bureau of Labor Statistics, the federal agency charged with calculating the inflation rate; and

**WHEREAS**, the inflation rate based on the consumer price index calculations by the U.S. Bureau of Labor Statistics since 2006 reflects that to equal \$1.00 of purchasing power in January, 2006, an individual would need \$1.54 as of July, 2023; and

**WHEREAS**, the Town Council finds that it is in the public interest to amend the per diem and travel reimbursement schedule to provide more realistic dollar amounts which are based on, but not precisely identical to, calculations as prepared by the General Services Administration that more accurately reflect the rise in inflation as demonstrated by the Consumer Price Index calculations as prepared by the U.S. Bureau of Labor Statistics; and

**WHEREAS**, travel to Cocoa Beach as based on the GSA standards has been selected as a statewide medium compensation rate; and

**WHEREAS**, the Town Council finds that this change in compensation rates will promote the public health, safety, economic order, and welfare, by more fairly compensating Town public officers and employees, helping the Town retain employees, and providing more realistic rates of compensation rather than expecting employees to endure the effects of inflation when traveling on official Town business; and

**WHEREAS**, the Town Council believes that as part of the Town Manager's annual budget message, the Town Manager should report the effects of inflation as shown by the Consumer Price Index and determine whether to recommend an adjustment in per diem and travel expense compensation; and

**WHEREAS**, the intent of the foregoing is not to provide for an annual adjustment in per diem and travel expense reimbursement rates but to provide for a periodic adjustment of the rates set forth herein,

**NOW, THEREFORE, BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF INDIALANTIC, FLORIDA:**

**SECTION 1.** Recitals. The foregoing recitals ("WHEREAS" clauses) are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the Town Council of the Town of Indialantic.

SECTION 2. That section 2-170 of the Code of Ordinances of Indialantic, Florida, is hereby amended to read as follows:

**Sec. 2-170. - Statute adopted.**

Except as amended hereby, the The town council hereby adopts by reference F.S. § 112.061. Any provision hereinafter contained in this article III, division 4, which may be in conflict with said statute shall prevail over said statute to the extent of the conflict.

SECTION 3. That section 2-179 of the Code of Ordinances of Indialantic, Florida, is hereby amended to read as follows:

**Sec. 2-179. – Per diem ~~Per diem~~ allowed.**

If the individual does not elect to itemize expenses under section 2-180, a per diem ~~per diem~~ allowance of \$166.00 ~~\$35.00~~ per full day of travel is authorized. Computation for per diem ~~per diem~~ shall be based on six hour periods on the first and last days of travel. Per diem ~~per diem~~ Per diem allowance will be granted only if overnight lodging is required. The travel day for Class A travel, as defined in s. 112.061, F.S., shall be a calendar day (midnight to midnight). The travel day for Class B travel, as defined in s. 112.061, F.S., shall begin at the same time as the travel period. For Class A and Class B travel, the traveler shall be reimbursed at a rate of one-fourth of the authorized rate of per diem for each quarter, or fraction thereof, of the travel day included within the travel period. For purposes of computing per diem compensation, Class A and Class B travel shall include any assignment on official business outside of regular office hours and away from the regular place of employment, when it is considered reasonable and necessary to stay overnight and for which travel expenses are approved.

SECTION 4. That section 2-180 of the Code of Ordinances of Indialantic, Florida, is hereby amended to read as follows:

**Sec. 2-180. - Itemizing of expenses.**

(a) General requirements. For travel expenses where per diem ~~per diem~~ allowance is not ~~not~~ selected by the claimant or for other authorized expenses, the claimant will request reimbursement by submitting to the town a form showing the mode of transportation, meals and lodging and miscellaneous expenses claimed. Receipts, vouchers and paid bills must be attached to each claim except when impractical to obtain, such as for tips and baggage handling charges. Mileage shall be calculated using state of Florida calculations from one location to another location for mileage expense reimbursement. When lodging or meals are provided at a state institution, the traveler shall be reimbursed only for the actual expenses of such lodging or meals, not to exceed the maximum provided for in this subsection.

(b) Meals and incidental expenses. Town employees shall receive the following amounts for meals and any tips paid with regard to meals: ~~\$17.00~~ ~~\$6.00~~ for breakfast; ~~\$18.00~~ ~~\$11.00~~ for lunch; and ~~\$34.00~~ ~~\$19.00~~ for dinner; and ~~\$5.00~~ for incidental expenses, rather than reimbursement for receipted cost except as provided for in section 2-177. No one, whether traveling out of state or in state, shall be reimbursed for any meal or lodging included in a convention or conference registration fee paid by the state.

(c) Daily lodging expenses. Daily lodging expenses for overnight travel allowance when the *per diem* rate allowance in s. 2-179 is not selected, is \$144 per day (for the period from the day after Easter until the day before Labor Day weekend), and \$187.00 per day (for the period from the beginning of Labor Day weekend until Easter), excluding taxes and additional charges. A public officer or public employee when traveling on town business *for the town* should use the town's tax exemption when approved by the town manager and when legal pursuant to state law. Otherwise, the foregoing daily lodging rate will be increased to include payment of taxes. According to the U.S. General Services Administration, lodging *per diem* rates have been based on average daily rate (ADR) data, less five (5) percent. ADR is a widely accepted lodging industry measure based upon a property's room rental revenue divided by the number of rooms rented as reported by the hotel property to the contractor. Three factors affect or influence ADR resulting in an ADR that may differ from published market rates. These three factors are: Property Selection Criteria; Time Frame; and Seasonality. Hotel/motel costs during the period from Labor Day through Christmas and up until Easter in Florida usually show an increase in rates of between 15% and 30%.

(d) Mileage.

(1) Airplane reimbursement shall be based on a per mile allocation of \$1.74 per mile, or the actual cost of the airplane ticket using the cheapest seating available. If use of a private automobile is approved, the per mile rate of reimbursement shall be 65.5 cents per mile. Reimbursement for mileage shall only be permitted for trips to or from locations outside of Brevard County. Notwithstanding the foregoing, reimbursement for mileage shall be permitted for town employees traveling on town business for travel outside of Brevard County and within the county. If a town or other government operated motor vehicle is used, the per mile rate of reimbursement shall be 22 cents per mile. If use of a motorcycle is approved, the per mile rate of reimbursement shall be 63.5 cents per mile.

(2) If it is cheaper than paying mileage, the town manager shall have the right, but not the obligation, to direct that a traveler rather than seeking mileage for travel shall rent a car, renting the lowest cost vehicle for the number of people to travel comfortably. The town manager may direct to the extent that it is available, rental of a vehicle using a state or other governmental agency contract. If use of a state or other government vehicle is available, the town manager may require the traveler to use said vehicle. The traveler may include as part of the rental charges for insurance coverage.

(e) Parking fees. The cost of parking shall be reimbursable; provided, that said parking fees do not exceed \$50.00 per day.

SECTION 5. That section 2-181 of the Code of Ordinances of Indialantic, Florida, is hereby amended to read as follows:

**Sec. 2-181. - Administration by manager.**

The town manager is designated as the approving authority for all claims for reimbursement for official travel by town employees, the town's attorneys, or other agents of the town, including but not limited to *per diem* per-diem, subject to review by the town council, if an appeal filed with the town clerk, and a copy to the town manager, within thirty days after denial is made by someone other than an employee. All travel by town council members must be approved before or after the travel by the town council. All travel by the town manger must be either approved as a specific line item in the town budget or by vote of the town council. Approval for the town manager, town council members, the town's attorneys, or other agents of the town, may be granted prior to or after travel based on the purpose of the travel and budget funding availability. A request for reimbursement made after the travel must be made within not more than 60 days of the completion of the travel. The criterion to be followed is whether or not the claim is reasonable; i.e. i.e., a reflection of the actual allowable expenses incurred by the traveler without extravagance. For example, when a price range is offered by hotels, the medium or lower rate is appropriate and, as prescribed in section 2-172, no reimbursement may be claimed for dependents. The town manager shall also establish procedures necessary to implement this division, to assure accountability of funds expended and to keep any necessary records for budget, training and audit purposes.

**SECTION 6. Severability Clause/Interpretation.**


(a) In the event that any term, provision, clause, sentence or section of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

(b) That in interpreting this Ordinance, underlined words indicate additions to existing text, and ~~stricken-through~~ words include deletions from existing text. Asterisks ( \* \* \* ) indicate a deletion from the Ordinance of text, which exists in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance.

SECTION 7. Effective Date. This Ordinance shall become effective upon adoption of this Ordinance.

PASSED by the Town Council of the Town of Indialantic on first reading on the 13th day of September, 2023, and ADOPTED by the Town Council of the Town of Indialantic, Florida on final reading on the \_\_\_\_ day of October, 2023.

TOWN OF INDIALANTIC

  
Mark McDermott, Mayor

ATTEST:

  
Mollie Carr, Town Clerk

